

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: FOSAMAX PRODUCTS)
LIABILITY LITIGATION,)

) MDL NO. 1789
This document relates to: ALL ACTIONS,) 1:06-md-1789 (JFK)

)

SEP 22 2006

CASE MANAGEMENT ORDER NO. 2
(APPOINTMENT OF PLAINTIFFS' LEAD COUNSEL, LIAISON COUNSEL,
EXECUTIVE COMMITTEE, AND STEERING COMMITTEE)

This matter has come before the Court for designation of Lead Counsel. Having met with
counsel for the several Plaintiffs and Defendant, IT IS HEREBY ORDERED as follows:

**I. APPOINTMENT OF PLAINTIFFS' STEERING COMMITTEE AND EXECUTIVE
COMMITTEE.**

The Court designates the following counsel to act on behalf of Plaintiffs with respect to those
items enumerated in § II, *infra*.

A. Plaintiffs' Executive Committee.

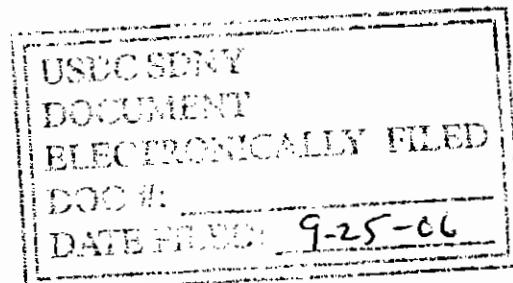
The Court designates the following counsel as Plaintiffs' Executive Committee:

1. Lead Counsel.

Timothy M. O'Brien
Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A.
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2. Liaison Counsel.

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3. Coordinating Counsel.

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B. Plaintiffs' Steering Committee.

The Court designates the following counsel as Plaintiffs' Steering Committee:

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II. RESPONSIBILITIES OF PLAINTIFFS' STEERING COMMITTEE AND EXECUTIVE COMMITTEE.

The Plaintiffs' Steering Committee and Executive Committee shall have the following duties and responsibilities:

A. Plaintiffs' Executive Committee.

The Plaintiffs' Executive Committee shall be responsible for coordinating the activities of Plaintiffs during pretrial proceedings and, in consultation with and with the assistance of the Plaintiffs' Steering Committee, shall: determine and present to the Court and opposing parties the position of the Plaintiffs on all coordinated matters arising during pretrial proceedings; coordinate the initiation and conduct of discovery for the common benefit of the Plaintiffs; enter into stipulations with opposing counsel necessary for the conduct of the coordinated pretrial proceedings; submit, where needed, additional committees and counsel for designation by the Court; and perform such other duties as may be incidental to the proper coordination of Plaintiffs' pretrial activities. With the consultation and advice of the other members of the Plaintiff's Steering Committee, the Plaintiffs' Executive Committee shall make the decisions pertaining to these previously referenced matter. In the event that the Plaintiffs' Executive Committee is evenly split on any such issue, the tie shall be resolved by the vote of Lead Counsel.

The only person authorized to speak on behalf of and bind the Plaintiffs' Steering Committee shall be Lead Counsel, or, Liaison Counsel in his stead, or other members of the Plaintiffs' Executive Committee as expressly authorized by Lead Counsel.

B. Plaintiffs' Steering Committee.

At the request of and under the supervision of the Plaintiffs' Executive Committee, the whole of the Plaintiffs' Steering Committee shall have the following responsibilities:

- (1) Initiate, coordinate, and conduct all common benefit pretrial discovery on behalf of plaintiffs in all actions which are consolidated with the instant MDL.
- (2) Develop and propose to the Court schedules for the commencement,

executions, and completion of all discovery on behalf of all plaintiffs.

- (3) Cause to be issued in the name of all plaintiffs the necessary discovery requests, motions, and subpoenas pertaining to any witnesses and documents needed to properly prepare for the pretrial of relevant issues found in the pleadings of this litigation.
- (4) Conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of all MDL plaintiffs.
- (5) Examine witnesses and introduce evidence at hearings on behalf of plaintiffs.
- (6) Act as spokesperson for all plaintiffs at pretrial proceedings and in response to any inquiries by the Court.
- (7) Submit and argue any motions to the Court, and file any briefs in opposition to motions, on behalf of all plaintiffs, which involve matters with the sphere of the responsibilities of the Plaintiffs' Steering Committee.
- (8) Explore, develop, and pursue all settlement options pertaining to the common benefit of all plaintiffs.
- (9) Maintain adequate files of all pretrial matters, including establishing and maintaining a document depository, and having those documents available, under reasonable terms conditions, for examination by all MDL Plaintiffs or their attorneys.
- (10) Perform any task necessary and proper for the Plaintiffs' Steering Committee to accomplish its responsibilities as defined by the Court's orders, including organizing sub-committees comprised of plaintiffs' attorneys both on the

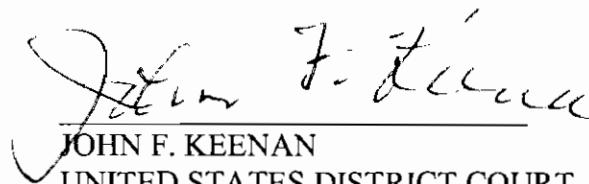
PSC and not on the PSC and assigning them tasks consistent with the duties of the Plaintiffs' Steering Committee.

- (11) Perform such other functions as may be expressly authorized or directed by further orders of this Court.

IT IS SO ORDERED.

* * *

Dated: September 25, 2006



John F. Keenan

JOHN F. KEENAN
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK